

UNITED STATES DISTRICT COURT
for the
Western District of Washington

In the Matter of the Search of:

Kyler Lann Rainey

Case No. MJ23-5211

APPLICATION FOR A SEARCH WARRANT FOR BLOOD SAMPLE

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that a sample of blood consisting of one or more tubes or vials should be taken from the following person:

Rainey, Kyler Lann

located in the Western District of Washington and that this blood sample is evidence of the following crime or crimes.

- Driving While Under the Influence in violation of RCW 46.61.502, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- Driver under Twenty-One Consuming Alcohol or Marijuana in violation of RCW 46.61.503 and 18 U.S.C. § 13
- Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- Vehicular Assault in violation of RCW 46.61.522 and 18 U.S.C. § 13
- _____

This application is based on the facts set forth in the attached affidavit which is incorporated herein as if fully set forth.

Pursuant to Fed. R. Crim. P. 4.1 & 41(d)(3), this warrant is presented:

- By reliable electronic means.
- Telephonically (and recorded).

GALLO.RYAN.LAWRENCE.127
2658770

Digitally signed by

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Date: 2023.05.26 19:50:40 -07'00'

Applicant's Signature
Ofc. Ryan Gallo

The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone on this 26th day of May 2023.



THE HON. MICHELLE L. PETERSON
UNITED STATES MAGISTRATE JUDGE

STATE OF WASHINGTON)
) ss
COUNTY OF PIERCE)

AFFIDAVIT OF OFFICER RYAN GALLO

I, Officer Ryan Gallo, a Collision Investigator with Joint Base Lewis McChord, Washington, having been duly sworn, state as follows:

AFFIANT BACKGROUND

9 1. I have served as a law enforcement officer for the past 19 years. My
10 training and experience relevant to the investigation discussed below includes the
11 following:

- Department of the Army Civilian Police Academy
 - Basic Law Enforcement Academy at the Washington Criminal Justice Training Commission
 - Standardized Field Sobriety Testing
 - Advanced Roadside Impaired Driving Enforcement Training

The information presented in this affidavit is:

- Based on my personal observations and interviews that I have conducted.
 - Based on the personal observations and interviews conducted by xx **Name of Officer or Officers**, who is/are xx **Title** and xx **Agency**. I have learned that this individual has received the following relevant training and has xx years of experience as a law enforcement officer.

1 2. I am a Collision Investigator with JBLM Police Department. I have 19
2 years of experience as a law enforcement officer, and a summary of my relevant training
3 follows.

4 3. I am a police officer with the Department of the Army Civilian Police,
5 assigned to Joint Base Lewis-McChord, WA 98433, and Directorate of Emergency
6 Services. I have been in this position since September of 2015. I currently serve as a
7 patrol officer responsible for security and law enforcement on Joint Base Lewis-
8 McChord, WA 98433. Previously, I performed law enforcement as a Military Police
9 Officer at Ft. Lewis, WA from 2004 to 2009, at Joint Base Charleston, SC as a civilian
10 Police Officer from 2009 to 2015 and as a Reserve Sheriff's Deputy with Dorchester
11 County, SC in 2011.

12 4. I have completed training in, and am certified to perform, Standard Field
13 Sobriety Tests in Washington State by the Directorate of Emergency Services on Joint
14 Base Lewis-McChord. My certification was completed in May of 2017 in accordance
15 with the National Highway and Transportation Safety Administration (NHTSA)
16 standards. I am also a certified SFST instructor as of October 2020. I have also attended
17 the Department of the Army Civilian Police Academy, a 10-week training course which
18 included training on the subjects of DUI detection and Standard Field Sobriety Tests. I
19 have also completed training with the South Carolina Criminal Justice Academy, earning
20 a Law Enforcement Certification to become a Reserve Sheriff's Deputy. Further I
21 completed training and certification on the BAC Data Master in September of 2015 and
22 The Draeger Alcotest 9510 in September 2018. I have conducted 22 investigations and
23 assisted with dozens more to include DUI/Physical Control arrests during my law
24 enforcement career. By virtue of this training and experience, I am competent to perform
25 such tests.

1 INTRODUCTION AND PURPOSE OF THE AFFIDAVIT

2
3 5. The purpose of this affidavit is to seek a search warrant to authorize me or
4 other law enforcement officers to direct a physician, a registered nurse, a licensed
5 practical nurse, a nursing assistant as defined in Chapter 18.88A of the Revised Code of
6 Washington (RCW), a physician assistant as defined in chapter 18.71A of the RCW, a
7 first responder as defined in chapter 18.73 of the RCW, an emergency medical technician
8 as defined in chapter 18.73 of the RCW, a health care assistant as defined in chapter
9 18.135 of the RCW, or any technician trained in withdrawing blood to extract a blood
10 sample consisting of one or more tubes or vials from **Kyler Lann Rainey** (hereafter,
11 “Rainey” or “the Subject”), who is fully identified in the proposed attached warrant. This
warrant is requested for the purpose of gathering evidence of the following crime(s):

- 12 Driving While Under the Influence in violation of RCW 46.61.502, 18
13 U.S.C. § 13, and 36 C.F.R § 4.23 or 38 C.F.R. § 1.218
- 14 Physical Control of a Vehicle While Under the Influence of Alcohol or
15 Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R §
16 4.23 or 38 C.F.R. § 1.218
- 17 Driver under Twenty-One Consuming Alcohol or Marijuana in violation
18 of RCW 46.61.503 and 18 U.S.C. § 13
- 19 Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- 20 Vehicular Assault in violation of RCW 46.61.522 and 18 U.S.C. § 13
- 21 _____
- 22

23
24 6. I am seeking to present this application for a search warrant by electronic
25 means because the natural metabolism of alcohol or drugs in the bloodstream may

1 result in the loss of this evidence in the time it would take to present a search warrant
2 application in a more traditional fashion.

3 SUMMARY OF PROBABLE CAUSE

4 7. As a result of my duties I am familiar with the jurisdictional boundaries of
5 Pierce County, Washington. The incident described below occurred within these
6 jurisdictional boundaries, an area within the special maritime and territorial jurisdiction
7 of the United States as defined in 18 U.S.C. § 7.

8 8. The initial contact with the Subject occurred on May 26, 2023 at
9 approximately 1626 Hrs on Shoreline Beach Rd, JBLM, WA. At the time, I was
10 stationary facing northeast on Shoreline Beach Rd, checking the travel speed of passing
11 traffic using a radar unit (Stalker DSR X2, RADAR #DP023077, Tuning Forks:
12 #FA212020 and #FB316734) in the moving mode. The radar was turned on and all
13 internal checks were made. The unit was also checked for calibration verification with the
14 listed tuning forks designed for this unit to ensure proper and accurate operation. The unit
15 was found to be working properly before this stop.

16 9. I viewed a motorcycle, leaving the park on Shoreline Beach Rd. I estimated
17 its speed at 39 Mph in a posted 20 Mph zone. As the motorcycle came into radar range, an
18 audible Doppler signal was emitted. The audio tone was clear, continuous, and consistent
19 with my visual observation. I locked a digital readout of the vehicle's speed at 39 mph.

20 10. I stopped the motorcycle on Shoreline beach Rd. The motorcycle had a
21 North Carolina license plate, number 7R8749. I contacted the operator, identified myself,
22 and requested his driver's license, registration, insurance, and military ID. Based on the
23 photo identification he provided, which matched his appearance, I was able to identify
24 the motorcycle driver to be **Kyler Lann Rainey**. As I was talking to Rainey, I noticed his
25 speech was slurred, and I asked if he had consumed any alcohol. He stated he has a
26 stutter, and that was why he sounded the way he did. He continued to explain that the
27 motorcycle he was operating was not his, but belonged to his friend, who was at

1 American Lake, JBLM. While he was talking, I detected a strong odor of intoxicants
 2 emitting from his person. I asked Rainey how long it had been since his last drink, and he
 3 said 3 hours ago. I asked Rainey if he would be willing to perform the Standardized Field
 4 Sobriety Test (SFST), to ensure he was safe to drive. Rainey consented, and the SFSTs
 5 showed signs of impairment. 6 clues with vertical on the Horizontal Gaze Nystagmus
 6 (HGN) test, 2 clues for the Walk and Turn (WAT) test, and 2 clues on the One Leg Stand
 7 (OLS) test.

8 11. Based on my training and experience, I believe Rainey may be under the
 9 influence of intoxicants or drugs for the following reasons: Rainey smelled strongly of
 10 intoxicants; he showed signs of impairment, including bloodshot, watery eyes, slurred
 11 speech, and signs of impairment on SFSTs, including 6 clues on the HGN test with
 12 vertical, 2 clues on the WAT test, and 2 clues on the OLS test.

13 12. The Subject:

- 14 Has refused to take a breath Alcohol test on an instrument approved by
 the State Toxicologist or a federal agency for such breath testing.
- 15 Is being treated in a hospital, clinic, doctor's office, emergency medical
 vehicle, ambulance, or other similar facility, or is at a location that lacks
 an instrument approved by the State Toxicologist or a federal agency for
 performing such breath testing, and has refused to submit to a blood
 test.
- 16 Is incapable due to physical injury, physical incapacity, or other
 physical limitation of submitting to a breath alcohol test, and the
 defendant has refused to submit to a blood test.
- 17 Has refused to submit to a blood test at the request of the undersigned.
- 18 Was not offered an opportunity to take a breath alcohol test on an
 instrument approved by the State Toxicologist or a federal agency for

such breath testing because: due to resisting, and fighting with officers and threatening to harm officers.

- The available instrument is currently out of order
 - The individual does not speak English and the implied consent warnings are not available in a language that the defendant understands

- Submitted to a breath test on an instrument approved by the State Toxicologist or a federal agency for such breath testing but the breath alcohol concentration reading of xx **BAC LEVEL** is not consistent with the defendant's level of impairment suggesting that the defendant is under the influence of a drug.

13. A sample of blood extracted from the Subject if taken within a reasonable period of time after he/she last operated, or was in physical control of, a motor vehicle, may be tested to determine his/her current blood alcohol level and to detect the presence of any drugs that may have impaired his/her ability to drive. This search warrant is being requested within 3 hours and 30 minutes after the Subject ceased driving or was found in physical control of a motor vehicle.

CONCLUSION

14. For the reasons stated above, I request authority to direct a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter 18.88A of the RCW, a physician assistant as defined in chapter 18.71A of the RCW, a first responder as defined in chapter 18.73 of the RCW, an emergency medical technician as defined in chapter 18.73 of the RCW, a health care assistant as defined in

1 chapter 18.135 of the RCW, or a technician trained in withdrawing blood to extract a
2 blood sample consisting of one or more tubes or vials Rainey.

3 15. This application for a warrant is being presented electronically pursuant to
4 Fed. R. Crim P. 4.1 & 41(d)(3).

5 I certify (or declare) under penalty of perjury under the laws of the United States
6 that the foregoing is true and correct to the best of my knowledge, information and belief.

7 Dated this 26th day of May, 2023.

GALLO.RYAN.LAWRENCE.1272658770
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GALLO.RYAN.LAWRENCE.1272658770
Date: 2023.05.26 19:51:33 -07'00'

Ofc. Ryan Gallo, Affiant
Collision Investigator, JBLM Police

12 The above-named agent provided a sworn statement attesting to the truth of the
13 foregoing affidavit on 26th day of May, 2023.

mrlp
THE HON. MICHELLE L. PETERSON
UNITED STATES MAGISTRATE JUDGE